REMARKS

I. The Section 103 Rejections

Claims 1, 3, 7-10, 20, 22, 26, 27 and 37 were rejected under 35 U.S.C. §103(a) based on the combination of U.S. Patent No. 6,141,565 to Feuerstein et al. (hereinafter, "Feuerstein") and U.S. Patent No. 6,954,643 to Petrus et al. (hereinafter, "Petrus"). Applicants respectfully disagree and traverse these rejections for at least the following reasons.

Claims 1, 20 and 37 are independent. It is to these claims that Applicants direct their comments, it being understood that the following comments apply to the remaining dependent claims as well.

Claims 1, 20 and 37 include the feature of setting a number of base stations, from a list of potential hand-off base stations, that can be considered hand-off base stations to a number that is below an initial number to prevent undesired fluctuations in call blocking and call dropping rates depending on the measured traffic flow criteria and traffic-based hysteresis parameters. The Examiner acknowledges that Feuerstein does not disclose this feature (see page 3). To make up for this deficiency the Examiner relies upon Petrus.

As the Applicants have pointed out before, and now reiterate, Petrus appears to create a list of ordered base stations without regards to whether

the number of base stations in a list is below an initial number of base stations. The Examiner does not appear to have addressed this issue in the Office Action.

Further, Petrus does not appear to teach or suggest traffic-based hysteresis. Instead, Petrus appears to discuss signal-strength based hysteresis.

More specifically, in Petrus a hysteresis parameter, *h*, is added to the difference between received signal strengths (referred to as RSSI in Petrus) of a current base station and an *ith* candidate base station (*see* Petrus, column 7 at lines 15 - 21, and equation (1); *see also* claim 9). As such, the parameter *h* appears to have the dimensions of signal strength because it is calculated by a hysteresis calculation unit **822** based on an output from an RSSI unit **820** (*see* column 10 lines 27-29). Nowhere in Petrus does traffic loading appear to play a role in determining the hysteresis parameter *h*.

Further, the use of traffic loading in Petrus does not appear to depend on hysteresis. Instead, base stations in Petrus appear to be immediately eliminated as hand-off candidates if a base station candidate has a load above a threshold (*see* Fig. 6, step **608, 610** and **612**). As would be understood by one skilled in the art "hysteresis" refers to systems which have "memory" -- systems where the effects of a current input to a system are not felt at the same instant (*see* http://en.wikipedia.org/wiki/Hysteresis; emphasis added).

In contrast, as stated above base stations in Petrus appear to be immediately eliminated as hand-off candidates if a base station candidate has a load above a threshold.

Yet further, the Applicants respectfully believe the Examiner may be mis-interpreting Petrus. In the Office Action the Examiner presents an excerpt from Petrus. The Examiner states:

> "In accordance with one aspect of the invention, received signal strength and hysteresis (e.g., as provided by the cost function C) along with other base station selection criteria, such as **base station load** and estimated distance thereto, are used to select a base station."

(Office Action at page 5 (emphasis in original), citing, among other Petrus excerpts, column 7 lines 25-53).

As presently understood by the Applicants it appears as if the Examiner is relying on the above excerpt from Petrus as supporting the position that Petrus' separate signal strength hysteresis computations and base station load computations are somehow akin to the claimed traffic-based hysteresis parameters. They are not.

The Applicants believe that the cited excerpt refers to the flowchart of a process in Fig. 6 of Petrus, where it is appears that signal strength (step **602**) and base station load (step **608**) are mentioned. However, as Fig. 6 indicates and as indicated in the text explaining Fig. 6 (e.g., column 7 lines 6, 7) computations using signal strength are <u>separate</u> from those that use base

station load. Said another way, Petrus' hysteresis based signal strength computations do not include base station load, much less the claimed traffic-based hysteresis parameters.

In sum, the Applicants submit that the subject matter of claims 1, 3, 7-10, 20, 22, 26, 27 and 37 would not have been obvious to one skiilled in the art at the time the present application was filed.

Accordingly, Applicants respectfully request withdrawal of the rejections and allowance of claims 1, 3, 7-10, 20, 22, 26, 27 and 37.

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If the Examiner believes that personal communication will expedite prosecution of this application, the Examiner is invited to contact the undersigned. If necessary, the Commissioner is hereby authorized in this, concurrent, and future replies to charge any underpayment or non-payment of any fees required under 37 C.F.R. §§ 1.16 or 1.17, or credit any overpayment of such fees, to Deposit Account No. 50-3777, including, in particular, extension of time fees.

Respectfully submitted,

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